

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CLEMENS TINNEMEYER,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

Case No.: 2:09-cr-00072-GMN-RJJ
2:11-cv-01197-GMN

ORDER


Pending before the Court is Petitioner Clemens Tinnemeyer's Motion for Certificate of Appealability ("COA") (ECF No. 92). This motion is filed in regard to Tinnemeyer's Notice of Appeal (ECF No. 90). *See* Fed. R. App. P. 22(b)(1); *United States v. Mikels*, 236 F.3d 550, 551 n.2 (9th Cir. 2001). Tinnemeyer appeals this Court's denial of his 28 U.S.C. § 2255 motion to vacate sentence (ECF No. 85). (*See* ECF No. 90.)

Pursuant to 28 U.S.C. § 2253(c)(1)(B), an appeal of a final order in a proceeding under § 2255 may not proceed unless the court issues a certificate of appealability. "The [Ninth Circuit Court of Appeals] will not act on a motion for a COA if the district court has not ruled first." 9th Cir. R. 22-1. A certificate of appealability may issue only if the petitioner has made a substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2); *Allen v. Ornoski*, 435 F.3d 946, 951 (9th Cir. 2006). "A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). Finally, if issued, the certificate of appealability must indicate which specific issue or issues satisfy the showing required by § 2253(c)(2). *See* 28 U.S.C. § 2253(c)(3).

1 The Court has considered the issues raised by Petitioner Tinnemeyer with respect to
2 whether they satisfy the standard for issuance of a certificate of appealability, and determines
3 that none meet that standard. The Court will therefore deny the motion.

4 **IT IS HEREBY ORDERED** that the Motion for Certificate of Appealability (ECF No.
5 92) is **DENIED**.

6 DATED this 28th day of February, 2012.

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10 Gloria M. Navarro
11 United States District Judge
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